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Held at the Palais Wilson, Geneva, on Tuesday, 20 September 2016, at 10 a.m.

Chair: Ms. Muhamad Shariff (Vice-Chair)

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In the absence of Mr. Mezmur, Ms. Muhamad Shariff, Vice-Chair, took the Chair.

The meeting was called to order at 10 a.m.

Consideration of reports of States parties (*continued*)

Second periodic report of South Africa (continued) (CRC/C/ZAF/2; CRC/C/ZAF/Q/2 and Add.1)

1. *At the invitation of the Chair, the delegation of South Africa took places at the Committee table.*

2. **Mr. Dangor** (South Africa) said that the Government had embarked on highly coordinated, population-wide strategies to reduce the harm associated with the consumption of alcohol and the illicit use of drugs. Those strategies included measures to reduce both supply and demand.

3. **Ms. Nxumalo** (South Africa), referring to the question of street children, said that the development of the strategy for improving their lives had not involved consultations with the children themselves. However, relevant NGOs and child ambassadors had been consulted. The authorities would make an effort to consult street children in the future.

4. **Mr. Cardona Llorens** (Country Task Force) asked whether the State party had any plans to involve street children in the monitoring of the strategy and the evaluation of its results. He also wondered whether an evaluation of the results of the strategy had already begun.

5. **Ms. Nxumalo** (South Africa) said that ongoing work on the strategy would involve consultations with street children. No study of the impact of the strategy had yet been undertaken.

6. **Mr. Gastaud** asked whether the authorities had taken a census of the number of street children in the country's major cities and whether any coherent measures had been taken to help street children before the development of the current strategy.

7. **Ms. Bogopane-Zulu** (South Africa) said that there were only estimates for the number of children living or working in the streets. The Department of Social Development allocated funds to NGOs that operated shelters for such children. Many of the children living or working in the street were not South African. Local communities often helped the authorities identify undocumented children, whose provenance was generally unknown. Any former child soldiers who were identified were dealt with on a case-by-case basis.

8. South Africa had signed the International Labour Organization Worst Forms of Child Labour Convention, 1999 (No. 182) and had hired more labour inspectors. In the agricultural sector, however, pockets of child labour persisted. The Department of Labour and the Department of Agriculture, Forestry and Fisheries had therefore developed a joint strategy to combat it. Officials from the Department of Social Development visited farms during the off season, in part to interact with children and identify those likely to be sent to work in the fields.

9. **Ms. Mxakato-Diseko** (South Africa) said that former child soldiers or other victims of armed conflict arriving in South Africa from war-torn areas of neighbouring countries were never placed in camps. However, it was not always easy for the authorities to identify such children or determine what remedial help they might need. Her Government would welcome recommendations from the Committee in that regard.

10. **Mr. Cardona Llorens** said that the Committee would attempt to include appropriate recommendations in its concluding observations.

11. **Ms. Winter** asked whether anything could be done to ensure that psychologists specialized in working with child victims of armed conflict were available in areas where they were needed — for example, in the country's main border towns.

12. **Ms. Mxakato-Diseko** (South Africa) said that as the country's borders were porous, it would not be of any particular use to assign such specialists to border areas. Discussion on how best to deal with traumatized women and children entering the country from abroad was nonetheless under way. All children in South Africa, regardless of their immigration status, were entitled to public services, which they generally sought at the local level, on an equal basis. In connection with immigration issues more generally, Committee members should bear in mind that although South Africa was a developing country, it received more immigrants than such countries as Australia and Canada.

13. **Ms. Winter** said that specialized psychologists should therefore be available at local level.

14. **Ms. Mxakato-Diseko** (South Africa) said that in the townships it was virtually impossible to know who was an immigrant and who was not. Traumatized children were identified by local actors such as teachers and referred to local clinics or social workers.

15. **Ms. Bogopane-Zulu** (South Africa) said that the Department of Social Development provided services to all children in distress. Members of local communities were well aware of the need to report the existence of neglected or traumatized children to the local authorities.

16. The State party had not achieved Target 5.A of the Millennium Development Goals on the reduction of the maternal mortality ratio. Numerous campaigns promoting breastfeeding had been run. In the recent past, HIV-positive women had been advised not to breastfeed owing to issues relating to HIV-transmission and a number of infants in rural areas had died of preventable diseases such as diarrhoea, having been given formula prepared with dirty water. The situation had been clarified in that regard and women currently breastfed freely in public. Restrictions on the advertising of formula had been introduced and the Department of Health actively promoted breastfeeding. Many workplaces catered for the needs of breastfeeding women and breast milk could be stored at early childhood development centres. A number of breast-milk banks had been set up in hospitals. South Africa would be hosting the 2016 World Breastfeeding Conference later in the year.

17. The rate of mother-to-child transmission of HIV had fallen from 38.3 per cent in 2006 to 1.5 per cent in 2016; however, the prevalence of HIV/AIDS remained high among mothers aged 15 to 24 years. An interdepartmental programme on HIV/AIDS focusing on that population group and coordinated by the South African National AIDS Council had been launched. Condom distribution to youth and men and women had been increased, along with funding in that regard. A condom factory had been set up and a brand of condom had been designed and produced following consultations with young persons.

18. **Ms. Ayoubi Idrissi**, turning to the issue of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, asked whether child sex workers were prosecuted or treated as victims. She asked whether the results of quarterly studies on the impact of policies for the prevention of offences under the Optional Protocol were available.

19. **Mr. Rodríguez Reyes** said that the State party was to be congratulated on its efforts to promote breastfeeding. Information on how the national authorities intended to ensure that all hospitals were child friendly would be welcome. He asked whether all the provisions of the International Code of Marketing of Breast-milk Substitutes had been transposed into and were implemented through domestic legislation. While welcoming the

monitoring of breast-milk substitute producing companies by the Government, he asked whether the State party had ratified the Maternity Protection Convention, 2000 (No. 183) of the International Labour Organization. It would be useful to have information on the duration of and categories of women entitled to maternity leave.

20. **Ms. Aho Assouma**, turning to the issue of the prevention of mother-to-child transmission of HIV, asked whether all pregnant women, including in isolated rural areas, were tested for HIV. Information on the coverage of HIV-testing services at the district level and the number of health teams involved in that work would be welcome. The report submitted by the State party made no mention of the link between maternal and infant mortality rates and AIDS, or of the overall rate of assisted births. She asked how the national authorities were working with the African Union to reduce the number of maternal deaths resulting from caesarean sections. She asked whether caesarean sections and corresponding blood transfusions were performed free of charge. The Committee would be grateful for information on efforts to tackle AIDS, tuberculosis and malaria in detention centres, on shortages of antiretroviral drugs, HIV-testing reagents and tuberculosis drugs in the State party and access to such products in rural areas.

21. **Ms. Bogopane-Zulu** (South Africa) said that antiretroviral drugs were immediately provided to patients once they had tested positive for HIV, regardless of the number of CD4 T lymphocytes in their blood sample. HIV testing was offered as a part of regular blood-testing services, including in isolated rural areas. In total, 3.8 million persons in South Africa were currently being treated with antiretroviral drugs. An HIV counselling and testing campaign had been launched, which had reached 20 million persons over a 12-month period and which would be continued in the future to encourage individuals to be tested on an annual basis. Blood transfusion was 100 per cent HIV-free in the State party. Caesarean sections and postnatal infant care were provided free of charge in public hospitals. Pregnant women had access to free health care. Detainees had access to prompt voluntary tuberculosis testing and antiretroviral and tuberculosis drugs were available in detention centres as a part of free health-care provision. The few cases of malaria that did arise within the prison population were dealt with accordingly. Juvenile offenders were held in youth detention centres, rather than alongside adult prisoners. The State party had ratified the Maternity Protection Convention, 2000 (No. 183) of the International Labour Organization. Women were entitled to four months' paid and two months' unpaid maternity leave and provision was also made for paternity leave. The Department of Health was currently setting up an inspectorate to monitor issues relating to nutrition, medicines, medical equipment and professionals and labelling of food products, in partnership with the Department of Trade and Industry.

22. **Ms. Aho Assouma** said that she had been informed that blood transfusions performed in the context of caesarean sections were not provided free of charge. She asked whether detainees living with AIDS or tuberculosis remained incarcerated during treatment and whether, given the fact that condoms were freely available in the State party, the high rate of adolescent pregnancy would be the result of rape.

23. **Mr. Kotrane** said that the State party was to be congratulated on offering women four months' paid maternity leave. However, he had been informed that South Africa had not yet ratified the Maternity Protection Convention, 2000 (No. 183), the Maternity Protection Convention, 1919 (No. 3) or the Maternity Protection Convention (Revised), 1952 (No. 103) of the International Labour Organization.

24. **Ms. Bogopane-Zulu** (South Africa) said that blood transfusions were performed free of charge in public hospitals, including as a part of caesarean sections. Inmates with tuberculosis were placed in isolation and received six months' compulsory treatment at detention centre hospital units. An HIV intervention strategy had been put in place within the correctional system. Despite numerous awareness-raising campaigns on safe sex, the

South African National AIDS Council had found that many young persons were unable to negotiate condom use, which frequently led to adolescent pregnancies. In addition, many girls fell pregnant as a result of rape. The Government had decided to ratify the Maternity Protection Convention, 2000 (No. 183) of the International Labour Organization but would only do so once an audit of the country's international and domestic obligations had been carried out.

25. **Ms. Aldoseri** asked whether the national authorities had reviewed their strategy for raising awareness among students of sexual issues, whether adolescent mothers were expelled from school and, if so, whether follow-up was provided relating to their education in the wake of expulsion.

26. **Ms. Bogopane-Zulu** (South Africa) said that a new health programme for school children had been launched to improve their life skills. Pregnant students remained at school and returned to education following the birth of their children, benefiting from support with regard to early child development.

27. **Mr. Dangor** (South Africa) said that over the past 20 years the overall fertility rate had fallen significantly, including among girls aged 14 to 19 years. However, adolescent pregnancy remained a serious problem. The decline had been brought about by greater openness regarding the discussion of sexuality and improved access to sexual and reproductive health-care services. The Government had adopted the National Adolescent Sexual and Reproductive Health and Rights Framework Strategy, which addressed the issues of enjoyment of sexual and reproductive health rights and access to contraception. Sex-education strategies were currently being reviewed, with the aim of shifting the focus to prevention.

28. **Ms. Aho Assouma** said that she had not received an answer to her question on shortages of antiretroviral drugs. She asked what measures had been taken in that regard and what had caused the shortages. The State party might find it useful to carry out a study into why sex was all-pervasive in South African society.

29. **Ms. Bogopane-Zulu** (South Africa) said that, in the past, South Africa had been affected by shortages of antiretroviral drugs, often on account of problems with suppliers. The State party had managed to bring the price of antiretroviral drugs down and to increase the number of beneficiaries of such treatments. However, the number of clinics had remained static.

30. The Government was in the process of constructing a State-run pharmaceutical company for public use to ensure that all persons who required antiretroviral medication had access to supplies. A measure had been introduced recently which allowed patients to send an SMS message via their mobile phones to the chronic medication hotline, thereby alerting the hotline to a shortage in the supply of medication in a particular clinic. A chronic medication register had also been established which enabled patients to obtain their medication from an establishment that was geographically convenient to them, such as a nearby supermarket or shop. Moreover, a home delivery system for medication, particularly aimed at people in rural areas, had recently begun to operate.

Initial report of South Africa on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ZAF/1; CRC/C/OPSC/ZAF/Q/1)

31. **Ms. Sipamla Majokweni** (South Africa) referring to an earlier question, said that although the Constitution did not specifically address *ukuthwala*, it protected all customary practices that had not been found unconstitutional. People who abused *ukuthwala* to force children into marriage were prosecuted. By law, all persons involved in efforts to implement the Optional Protocol to the Convention on the Rights of the Child on the sale of

children, child prostitution and child pornography, including prosecutors, the police, court officials and health-care personnel, were required to undergo relevant training, and the public agencies organizing those training efforts had to submit to Parliament the syllabuses for their training programmes.

32. The sale of a child had not been defined as an offence as such in South Africa. In a recent case involving a woman who had attempted to sell a small child over the Internet, the State had secured a conviction on related charges, including child trafficking and money laundering.

33. Under the Constitution, South African courts, when interpreting the Bill of Rights, were required to consider international law. The alleged perpetrators of offences covered by the Optional Protocol could therefore be prosecuted in South Africa, even if those offences were not specifically defined in South African law.

34. **Ms. Khazova** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said that she would welcome a clarification as to whether child marriage was permitted in the State party. She also wondered whether she had understood correctly that the provisions of the Optional Protocol were directly applicable in South African law.

35. **Ms. Bogopane-Zulu** (South Africa) said that *ukuthwala* was but one of the many cultural practices protected, in general terms, under the Constitution. *Ukuthwala* was not in itself a wrong; it became a wrong when it was used to violate children's rights, including their right not to be forced into marriage. Child marriage was not allowed in South Africa.

36. The provisions of the Optional Protocol or other international instruments could be applied directly by the country's courts. Judgments in which such provisions were invoked then formed part of the country's body of case law.

37. **Ms. Sipamla Majokweni** (South Africa) said that South Africa was regarded as a paradise for child pornography. Nonetheless, offenders had been prosecuted, and there was no shortage of child pornographers who were serving lengthy prison sentences.

38. **Ms. Kambula** (South Africa) said that South Africa had two operating registers regarding sexual offences: the National Register for Sex Offenders (NRSO) and the Child Protection Register. The former registered the convictions of those who had perpetrated sexual offences against children and against persons with psychosocial disabilities. It also included any previous convictions of the offender. In the past, legislation on sexual offences had allowed the registration of all persons who had committed such crimes irrespective of their age. However, in a case that was brought to the constitutional court, the court decided that it was unconstitutional to enter the name of a child who had committed a sexual offence in the NRSO as it restricted the best interests of the child. Consequently, the provision requiring all sex offenders to be registered in the NRSO was amended to include restrictive measures that a court must consider when a child was convicted of a sex offence. Between 2009 and 2014, a total of 196 children had been registered in the NRSO.

39. The procedure for deciding whether a child's name should be entered in the NRSO was as follows: the case was initially considered by a prosecutor who would decide whether he or she believed that the child's name should be registered; the court responsible for hearing the case must receive a report from the child's probation officer addressing the livelihood of the child reoffending; the child in question would be required to appear before the court and explain why his or her name should not be placed on the register (legal aid services would be provided if necessary); the court would ultimately make the final decision.

40. It was possible for those who were children at the time of the commission of the offence to have their name removed from the NRSO subject to a number of different

criteria. For example, if the criminal sentence imposed was less than 18 months, the individual was eligible to have his or her name removed from the NRSO. However, if an individual had been convicted of two or more sex offences against children or persons with psychosocial disabilities, his or her name would never be removed from the register. The name could only be removed after five years following the individual's release from prison. However, the application to have the name removed could be made within the five-year period.

41. **Ms. Khazova** said that she wished to know whether a child who had been trafficked for the purpose of sexual exploitation would be imprisoned under law.

42. **Ms. Bogopane-Zulu** (South Africa), responding to an earlier question, said that South Africa did provide free housing and prioritized the provision of such housing for women with children. However, in cases of eviction, children were not subjected to discrimination. Evictions were carried out by authorities when land that had been earmarked for development was illegally occupied. The Social Security Agency carried out interventions for families in such a position.

43. **Ms. Sandberg** said that she would appreciate more specific information on how the rights of children were protected during evictions. For instance, were evicted families provided with alternative accommodation or were efforts made to avoid eviction where possible?

44. **Ms. Bogopane-Zulu** (South Africa) said that South African law very clearly outlined the procedure to be followed when carrying out evictions. For example, families were accommodated in community halls if they were evicted. Moreover, if the private owner of the illegally occupied land or the State did not react within 48 hours of being informed of the situation, alternative accommodation had to be sought for the evicted persons.

45. **Mr. Dangor** (South Africa) said that the number of people accessing social assistance in South Africa had increased considerably over the past 20 years, including the number of children who received the Child Support Grant. Research conducted by international agencies had indicated that the Child Support Grant was an effective measure in reducing the inequality rate and the number of children experiencing hunger, encouraging young girls to stay in school longer, and decreasing absolute poverty.

46. **Ms. Bogopane-Zulu** (South Africa) said that the Government had introduced a zero-hunger programme and that the Department of Social Development awarded Social Relief of Distress benefits for families in which none of the members were employed. The benefits were provided in the form of foodstuffs, food vouchers, or by enabling benefit recipients to eat free of charge in community nutrition development centres. The Department of Social Development paid the salaries of those who had been trained as cooks in the community centres. NGOs had contributed to the implementation of the programme.

47. The Department of Water and Sanitation had been formed in 2014 and a number of policies had been created to improve access to such services. For instance, one policy provided that every household was entitled to a certain amount of free water and electricity before being required to pay for the services. Another strategy aimed to ensure that every South African had access to sanitation facilities, including in schools. The Department of Basic Education had been instructed to ensure that every school offered such facilities by 2019. Special grants had been awarded to the Department of Basic Education for that purpose.

48. **Ms. Sipamla Majokweni** (South Africa) said that South Africa did enjoy extraterritorial jurisdiction. Furthermore, South Africa did request the extradition of persons involved in cases of interest to the country but also agreed to the extradition of offenders to

foreign countries in cases that were deemed appropriate to be considered outside of South Africa.

49. **Mr. Kotrane** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said that he would like more information on the circumstances under which extraterritorial jurisdiction was invoked by the State party. In accordance with the Optional Protocol, any offence relating to the sale of children, child prostitution and pornography constituted grounds for exercising extraterritorial jurisdiction if the perpetrator was a national or resident of the State party or if the victim was a national of the State party. He also wished to know whether the Optional Protocol could be invoked as the sole basis for the extradition of an offender, regardless of whether South Africa had signed an extradition agreement with a specific country.

50. **Ms. Sipamla Majokweni** (South Africa) said that the Optional Protocol could not be used as the sole basis for extradition. Under current law, the offence perpetrated must constitute an offence in the country in which the crime was committed in order to allow the extradition of the individual to South Africa to proceed.

51. **Ms. Bogopane-Zulu** (South Africa) said that efforts were under way to achieve universal access to health-care services by 2019. The National Health Insurance scheme was currently at its pilot stage.

52. With regard to NGO participation, NGOs had been consulted during the preparation of the State party report which was later submitted to the Committee. A number of workshops had also been held with NGOs.

53. Children were not prosecuted for being involved in the sex trade, as they were considered victims under the Sexual Offences Act and Trafficking Bill. A strategy on sex work had recently been developed which focused on a number of areas, such as access to health-care services for sex workers, and the prevention of HIV and other sexually transmitted infections. Child victims of sex trafficking had access to health care irrespective of their nationality. A pre-exposure prophylaxis programme for sexually active girls was currently being implemented in order to prevent the risk of them contracting HIV.

54. **Ms. Kambula** (South Africa) said that cases of rights violations against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons were addressed by a national task force comprising Government departments and NGOs. There were also provincial rapid response teams that reported to provincial task forces and were responsible for identifying cases involving the LGBTI community, a challenging task given the reticence among victims to disclose their sexual orientation.

55. **Mr. Kgarabjang** (South Africa) said that discussions on the definition of child pornography had recently taken place. The definition in the Films and Publications Act had been brought into line with international standards, and recommendations for further amendments had been received from various organizations. With reference to the prosecution of child pornography offences, the Films and Publications Board had met with the Department of Justice and the National Prosecuting Authority, and those bodies reported to the South African Law Reform Commission so that such offences could be prosecuted.

56. The Films and Publications Board raised awareness of the dangers of child pornography through a campaign for children, parents, educators and the public that was overseen by a designated office. The Board had also participated in that year's Safer Internet Day and hosted events for primary schools.

57. **Ms. Khazova** asked whether mandatory courses on Internet safety existed, or were planned, in schools.

58. **Ms. Sandberg** asked whether life skills programmes addressed sexual identity and whether they were devised with the involvement of young people.

59. **Mr. Dangor** (South Africa) said that the sexual and reproductive health strategy for adolescents was under review. The revised strategy would address sexual identity.

60. **Mr. Kgarabjang** (South Africa) said that a formal sex education curriculum did not exist in South Africa.

61. **Ms. Bogopane-Zulu** (South Africa) said that no Internet safety programme currently existed. Unsafe, illegal abortions remained a problem that particularly affected young girls, who, according to research, often turned to illegal practitioners for fear of their families being informed by health-care professionals. More youth-friendly clinics had therefore been opened; they also provided contraception, for example through a programme that provided the contraceptive implant to female pupils.

62. The Department of Tourism was developing a policy to protect children in tourist areas, and police officers regularly visited areas where sex was commonly sold. Assistance was provided to children found in those areas.

63. **Ms. Nxumalo** (South Africa) said that the Child Care and Protection Forum addressed issues pertaining to the Optional Protocol.

64. **Ms. Aho Assouma** asked whether specific measures had been adopted to tackle childhood obesity.

65. **Ms. Bogopane-Zulu** (South Africa) said that a study on the root causes of violence against children had been carried out.

66. **Mr. Dangor** (South Africa) said that numerous studies on the causes of gender-based violence and violence against children had been undertaken. One of the biggest, led by the National Prosecuting Authority, had detected a link between patriarchy, poverty, inequality and exclusion. Those studies informed Government policies and departments in terms of law enforcement and support for victims.

67. **Ms. Ayoubi Idrissi** asked what support was available for victims of sexual violence. Psychological support was of particular importance given the high rates of suicide among young adults.

68. **Ms. Bogopane-Zulu** (South Africa) said that cultural factors and the lack of sex education during apartheid made it difficult for today's parents to talk about sex and sexuality with their children. Furthermore, on account of the HIV/AIDS epidemic children were often raised by their grandparents, who did not feel able to discuss such subjects.

69. Although there was no specific strategy to target childhood obesity, the Department of Health had introduced regulations limiting salt and sugar in food, and sports had been reintroduced to schools. Outside gymnasia had been built and were accessible to all citizens, and there was a healthy lifestyle programme, as well as weekly organized walks. Swimming pools had been opened in many municipalities and swimming lessons provided for children. To address suicide among the young, the Department of Social Development supported the South African Depression and Anxiety Group.

70. **Ms. Nxumalo** (South Africa) said that the country's victim empowerment programme was guided by the Service Charter for Victims of Crime and provided psychosocial support, residential care, preparation for court and support for victims in hospitals and police stations, most of which were equipped with victim-friendly rooms. Social workers, police officers, court staff and health officials were trained in the implementation of the programme, and a survey of victims' satisfaction with the criminal justice system had been carried out.

71. Psychological support was also provided in partnership with various NGOs, and the Government ran a free, 24-hour centre that provided counselling via telephone, text message or the Internet. Geolocation technology was used to refer those who contacted the centre to their nearest social worker. The service aimed to reduce suicide among young people, particularly when secondary school examination results were released.

72. **Ms. Bogopane-Zulu** (South Africa) said that as a result of feedback given to the centre by parents and pupils, the Department of Basic Education now allowed pupils to re-sit their examinations, which led to a reduction in suicides.

73. **Ms. Oviedo Fierro** (Coordinator, Country Task Force) said that while the delegation had used the country's difficult position to justify its problems, she would have liked to engage in deeper discussion of the challenges that were causing them. Investment in children was a strategic decision; if they were allowed to develop their full potential, so too would the country.

74. **Ms. Khazova** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said that despite its many problems, the State party possessed the will and resources to become one of the safest places in the world for children with regard to offences under the Optional Protocol.

75. **Ms. Bogopane-Zulu** (South Africa) said that many lessons had been learned during the dialogue with the Committee. In particular, the delegation had noted the Committee's comments on the need for a strengthened coordinating mechanism and on children with disabilities. Although the country's geographical location made child protection challenging, it was a priority for the Government.

The meeting rose at 12.45 p.m.